

**ANGUS LICENSING BOARD – 2 NOVEMBER 2017**

**PREMISES LICENCES – REQUEST TO VARY UNDER THE LICENSING (S) ACT 2005**

**REPORT BY SHEONA C HUNTER CLERK TO THE BOARD**

**ABSTRACT**

The purpose of this Report is to present applications to vary premises licences under the Licensing (Scotland) Act 2005 which require to be determined by the Board.

**1. RECOMMENDATION**

It is recommended that the Board consider and determine the applications to vary premises licences as detailed in the attached **Appendix**, in terms of one or the following options:-

- (i) to grant the application, subject to Statutory Conditions and any other variation to the conditions to which the licence is subject that the Board may wish to impose;
- (ii) to defer the application to the next Licensing Board; or
- (iii) to refuse the application on one or more of the grounds referred to in Paragraph 7.

**2. BACKGROUND**

The Board has received applications to vary premises licences under the Licensing (Scotland) Act 2005 which require to be determined by the Board because the matters are not subject to delegation and shall only be discharged by the Licensing Board.

**3. FINANCIAL IMPLICATIONS**

There are no financial implications arising from this Report.

**4. OTHER IMPLICATIONS**

Legal

A variation, in relation to a Premises Licence, means any variation of:-

- (a) any of the conditions to which the licence is subject (other than the Statutory Conditions);
- (b) any of the information contained in the operating plan contained in the licence;
- (c) the layout plan contained in the licence; or
- (d) any other information contained or referred to in the licence.

**5. If the variation sought is a minor variation, then the variation must be granted and powers have been delegated to the Clerk to approve these minor variation applications. Minor variations are:-**

- (a) any variation of the layout plan, if the variation does not result in any inconsistency with the operating plan;
- (b) where, under the operating plan contained in the licence, children or young persons are allowed entry to the premises, any variation reflecting any restriction or proposed restriction of the terms on which they are allowed entry to the premises;
- (c) any variation of the information contained in the licence relating to the premises manager (including a variation so as to substitute a new premises manager), and

(d) any other variation of such description as may be prescribed.

6. The Board must hold a hearing and determine applications to vary which are not minor variations.

The Board must, in considering and determining the application, consider whether any of the grounds for refusal applies and:-

- (a) if none of them applies, the Board must grant the application; or  
(b) if any of them applies, the Board must refuse the application.

7. The grounds for refusal are:-

- (a) that the application must be refused under Section 32(2) (the Board had previously refused an application to vary a premises licence within the preceding one year), Section 64(2) (alcohol would be sold for a continuous period of 24 hours from the premises, unless there are exceptional circumstances which justify allowing the sale of alcohol on the premises during such a period), or Section 65(3) (if alcohol is to be sold for off sales purposes before 10am or after 10pm, or both);
- (b) that the Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives,
- (c) that, having regard to:
- (i) the nature of the activities carried on or proposed to be carried on in the subject premises,
  - (ii) the location, character and condition of the premises; and
  - (iii) the persons likely to frequent the premises,

the Board considers that the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation,

- (d) that, the Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises, or licensed premises of the same or similar description as the subject premises (taking into account of the variation), in the locality.

**REPORT AUTHOR:** Tina Magson, Solicitor

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**(a) LICENCE NO. 140 EAST END BAR AND NOVA SUITE, 91 MONTROSE STREET, BRECHIN**

**Name and Address of Applicant**

Douglas Walker, 66 Montrose Street, Brechin, DD9 7DE

**Type of Licence:** On Sales

**Confirmation Notice**

Consideration of this application was deferred from the Board on 14 September 2017 due to the site notice not having been displayed and the confirmation notice not having been lodged.

**Description of Variation Sought**

1. **Vary** the On Sales operating hours for Sunday from the existing opening hour 12.30pm to 11.00am

**The Board is asked to note that the hours requested are within Board Policy.**

2. **Seasonal Variation Dates** to include Christmas Eve

3. **East End Bar – Additional Activities**

- (i) live performances within core hours

**Nova Suite – Additional Activities**

- (i) restaurant facilities within and outwith core hours
- (ii) adult entertainment within core hours

4. **Children and Young Persons**

- (i) ages to be amended from 0 to 17 years to 5 to 17 years as no baby changing facilities are provided; and
- (ii) children and young persons under the age of 16 to be permitted to the Nova Suite lounge area to play darts. The bar is to be closed with shutters down. No gaming machine in view. Alcohol served only in public bar during play. No access to public bar for Children. Children to be accompanied by an adult.

5. **Address** of Licence Holder and Premises manager to be amended.

**Comments Received**

**COMMUNITIES, ENVIRONMENTAL & CONSUMER PROTECTION** advised on 21 August 2017 that the applicant be required to submit an appropriate noise management plan to demonstrate how noise from live performances will be adequately controlled and managed before a decision is made on whether to grant the variation to the premises licence to allow live performance in the bar area.

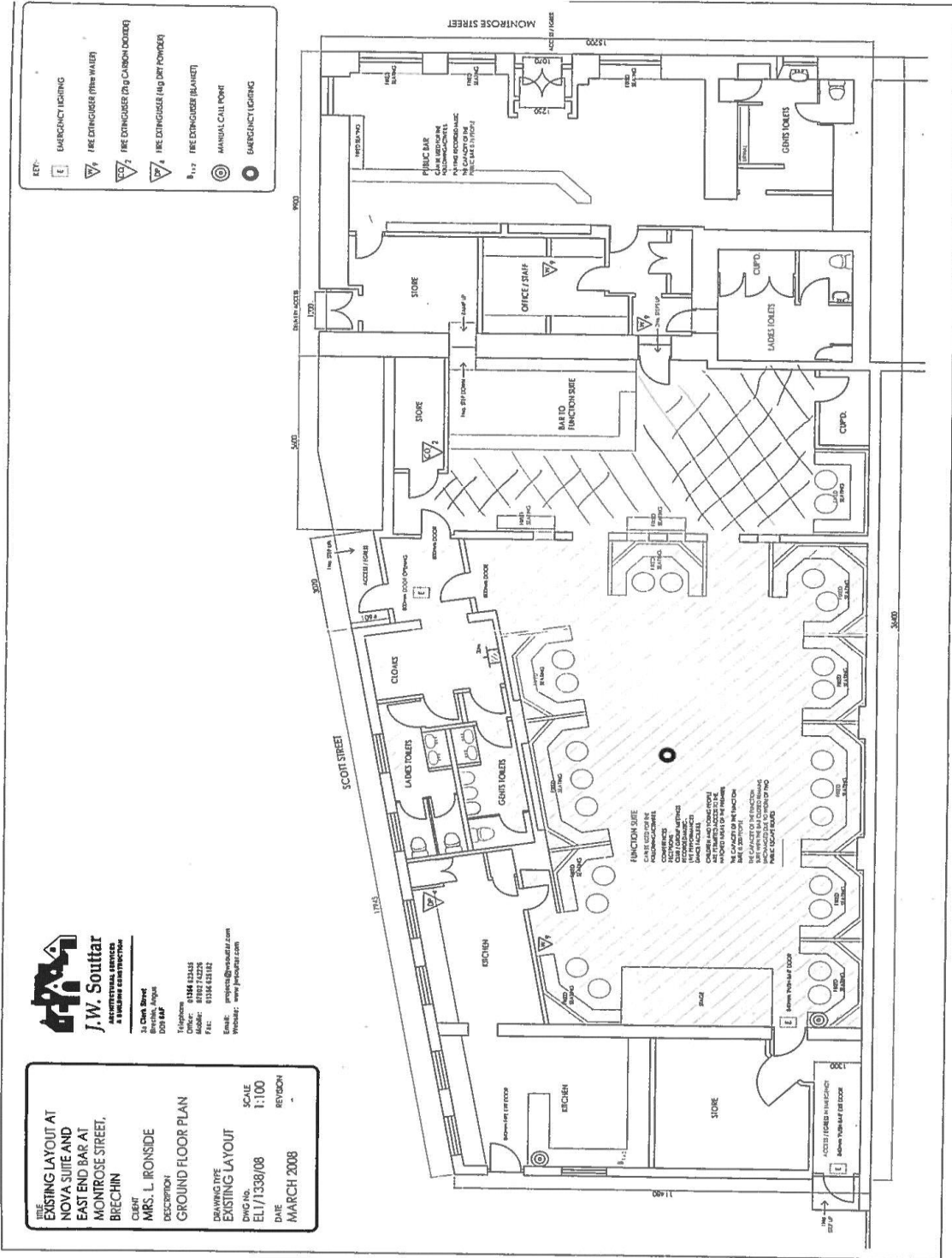
Members are reminded of paragraph 10.4 of the Angus Licensing Board Statement of Licensing Policy which states:

“10.4 The Board adopts the following policies on discretionary conditions which it will generally apply:-

DC/1

*Entertainment* Where the licensed premises comprise entertainment premises (within the meaning set out in policy LH/2):

- (i) details of the entertainment shall be advertised by the licenceholder in advance. The advertisement may be made by way of public notice at the premises;
- (ii) a reasonable amount of food and non-alcoholic beverages, including hot beverages shall be available at all times;
- (iii) the playing of music shall cease at the end of the permitted hours;
- (iv) all music and vocals must be controlled to the satisfaction of the any officer of Angus Council authorised in that regard;
- (v) all acts and participants must wear clothing or a costume made of non-transparent/non-translucent material to cover the breasts in the female and buttocks and genitals in each sex.”



APPENDIX TO REPORT LB49/17

ANGUS LICENSING BOARD – 2 NOVEMBER 2017

**Name and Address of Applicant**

Lidl UK GmbH, 19 Worple Road, Wimbledon, London, SW19 4JS

**Type of Licence:** Off Sales

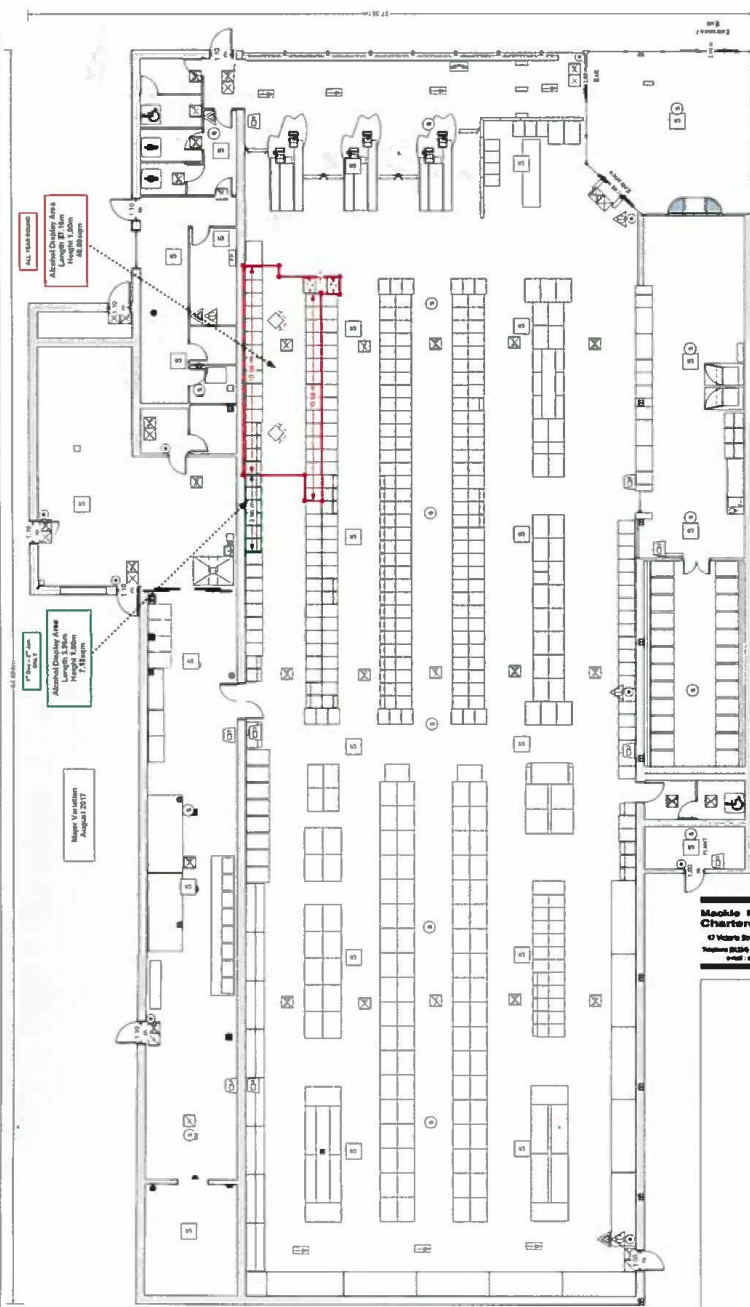
**Confirmation Notice**

If the confirmation notice is received before the Board date then this application will be dealt with. If the confirmation notice is not received the application may be deferred

**Description of Variation Sought**

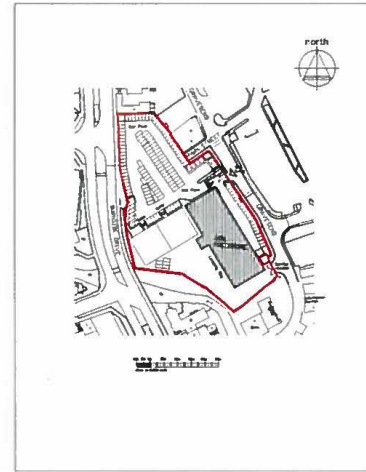
Increase in display capacity from 47.39 m<sup>2</sup> to 48.88 m<sup>2</sup> all year round plus an additional increase of 7.12 m<sup>2</sup> from 1 December each year to 2 January of the following year.

#1113 Arbroath – Lidl UK GmbH  
 Size: 5 Aisle 1286 sqm  
 Inner Length: 64.0m  
 Inner Width: 20.10m  
 Ceiling Height: 3.30m  
 Updated: 04.08.17



- FIRE SYMBOLS**
- ▲ Portable Water Extinguisher
  - ▲▲ Portable Foam Extinguisher
  - ▲▲▲ Portable CO<sub>2</sub> Extinguisher
  - ▲▲▲▲ Portable Dry Powder Extinguisher
  - ▲▲▲▲▲ Fire Blanket
  - ▲▲▲▲▲ Smoke Detector
  - ▲▲▲▲▲ Heat Detector
  - ▲▲▲▲▲ Warning Device Bell
  - ▲▲▲▲▲ Warning Device Siren
- ⊗ Emergency Light
  - ⊗ Emergency Exit Illuminated Sign
  - ⊗ Call Point
  - ⊗ Warning Device Visual
  - ⊗ Fire Exit Directional Signage
  - ⊗ Smoke Detector in ceiling void
  - ⊗ Fire Control Panel
  - ⊗ All Fire Exit Have A Push Bar & Signage
  - ⊗ Speaker (where)

**1113**  
**Mackie Ramsay Taylor**  
**Chartered Architects**  
 10 Victoria Road, Arbroath, AB12 1QH  
 Telephone 01846 822221 Fax 01846 822222  
 email: info@macrae.co.uk



APPENDIX TO REPORT LB49/17  
 ANGUS LICENSING BOARD – 2 NOVEMBER 2017

**Name and Address of Applicant**

Gala Leisure Limited, New Castle House, Castle Boulevard, Nottingham, NG7 1FT

**Type of Licence:** On Sales

**Confirmation Notice**

If the confirmation notice is received before the Board date then this application will be dealt with. If the confirmation notice is not received the application may be deferred

**Description of Variation Sought**

1. **Vary** the On Sales hours from 12 noon (12.30pm on a Sunday) to 11 am and from 23:00 hours to 01:00 hours.

Hours requested:

Monday to Sunday 11:00 to 01:00

**The Board is asked to note that the hours requested are out with Board Policy.**

2. **Vary** to add Off Sales hours

Hours requested:

Monday to Sunday 11:00 to 22:00

To enable alcohol such as wine to be provided as prizes for consumption off the premises. Any alcohol taken from the premises shall only be done so in sealed containers.

**The Board is asked to note that the hours requested are within Board Policy.**

3. **Address** - to alter the address of the premises from 131 High Street to 141 High Street
4. **Additional Activities** – gaming out with core hours.